

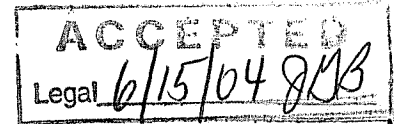
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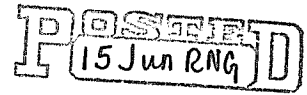
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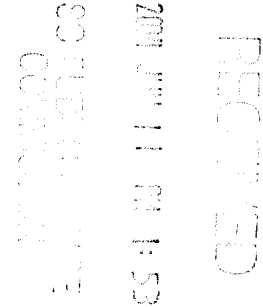
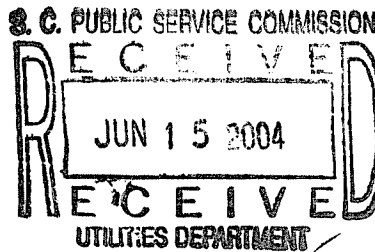
2004-169-E

June 11, 2004



Via Hand Delivery

The Honorable Bruce F. Duke
Executive Director
The Public Service Commission
Of South Carolina
101 Executive Drive, Saluda Bldg.
Columbia, SC 29210



Re: **Request for Partial Waiver** of Public Service Commission
of South Carolina Rules R 103-331 and
Motion to File Exhibit "1" Under Seal

Dear Mr. Duke:

Pursuant to Rules, R 103-301(3) and 103-800(B), South Carolina Code of Laws (1976, as Amended), Duke Power, a division of Duke Energy Corporation ("Duke Power"), hereby respectfully requests a partial waiver of Rule, R 103-331 as it relates to deposit requirements for nonresidential accounts. Currently, Rule R 103-331(3) allows Duke Power to require an existing customer to post a deposit to guarantee payment of bills for service if the customer has had two consecutive 30-day arrears or more than two non-consecutive 30-day arrears in the past 24 months. Based upon developments within Duke Power's nonresidential customer base, Duke Power believes that it needs to be able to require nonresidential customers to post a cash deposit or other form of guarantee when additional internal and external analyses of such customer's credit risks so justify. As set forth below, full compliance with the Rule introduces unusual difficulty to Duke Power and the partial wavier request is in the public interest. The reasons for this request, along with the criteria for determining the need for payment guarantee, are outlined below.

Background

Over the last four years, Duke Power has experienced a significant increase in the volume of accounts that must be written off as uncollectible. Many of these uncollectible accounts come from large commercial and industrial accounts, and the lack of available guarantee requirements for these established customers under Rule R 103-331 has been a significant contributor to write-offs in the nonresidential classes. Under the current rules

and approved rate schedules, an existing Duke Power customer that is paying within terms, but having extreme financial difficulty, can be indebted to Duke Power for two months' service without Duke Power having the ability to secure the account or discontinue service. By billing for service after it is used, and allowing a customer to continue to use service before they are required to pay for the previous month's service, a customer can be paying "on time" but still have the potential for creating a loss equal to two month's revenue. Duke Power nonresidential rate schedules approved by the Commission provide that bills are past due 15 days after the date of the bill; however, there is no incentive to encourage a customer to pay under this requirement because (1) service disconnection for a past due bill requires a 10 day notice; (2) Rule R 103-331 does not allow the account to be secured unless it is 30 days in arrears for two consecutive months or more than two non-consecutive months in the past 24 months; and (3) late payment charges do not accrue until the 25th day.

Below is a summary of large South Carolina nonresidential customers who were paying Duke Power for electric charges within required payment terms, but were shown by external credit rating agencies, such as Standard and Poor's and Moody's, to have deteriorating financial health. All of these customers ended up filing for Chapter 11 bankruptcy protection, and Duke Power and its customers will ultimately bear these significant losses. Despite the external indicators of the customers' dire credit worthiness, Rule R 103-331 would not allow Duke Power to rely on this information and require these nonresidential customers to post a deposit. The following summary shows the approximate amount of loss from these customers during the last few years.

S.C. Customer A	\$1,200,000	loss
S.C. Customer B	\$92,000	loss
S.C. Customer C	\$220,000	loss
S.C. Customer D	\$187,000	loss
S.C. Customer E	\$79,000	loss
S.C. Customer F	\$57,000	loss
S.C. Customer G	<u>\$430,000</u>	loss
Total	\$2,265,000	loss

In contrast to Rule R 103-331, North Carolina Utilities Commission Rule R 12-3 allows Duke Power to require that a customer reestablish credit when the basis on which the customer's credit was originally established has materially changed. The following table shows the amount of loss avoided from similarly situated North Carolina customers, because Duke Power was able to secure the accounts after external data revealed that the customer's credit risk had materially changed.

N.C. Customer A	\$1,500,000	loss avoided
N.C. Customer B	\$1,200,000	loss avoided
N.C. Customer C	\$457,000	loss avoided
N.C. Customer D	<u>\$300,000</u>	loss avoided
Total	\$3,457,000	loss avoided

Based on this recent data, Duke Power believes it is necessary, in order to exercise fiscal prudence, to minimize the risk associated with those customers that pay Duke Power, even within 15-day terms, but ultimately file for bankruptcy protection due to their inability to pay other creditors.

Proposed Criteria to Determine Credit Worthiness

The following information would be utilized in Duke Power's analysis of credit worthiness for nonresidential customers.

- Customer's utility payment record,
- Key financial information and ratios that include but are not limited to the following:
 - Net Income
 - Gross Profit Margin
 - Cash Flow
 - Availability of Financing
 - EBIT/Interest Expense
 - Total Debt/Total Capital
- Public debt ratings and outlook forecasts from Standard & Poor's, Moody's, Fitch, or other available credit data providers,
- Information from Dun & Bradstreet regarding payment trends with other creditors and suppliers,
- Business profiles and industry analysis.

This internal and external data would be used to formulate an Internal Risk Rating as specified in the Duke Energy Corporate Credit Guidelines. Internal Risk Ratings are used throughout the Company and range from one to eight, with eight indicating the level of highest risk.

To ensure consistency among nonresidential customers, Duke Power would request security if the customer has an Internal Risk Rating of six or higher, which equates to a Standard & Poor's below investment grade ratings of B+, B or B-. A copy of the ratings is attached as Exhibit "1".

Acceptable forms of security would include a cash deposit, standby irrevocable letter of credit, or guarantee from a creditworthy parent company. Duke Power would then require that the security be maintained until the customer achieves an Internal Risk Rating of five or better. At that time, a cash deposit would be refunded with interest and any Letter of Credit or required guarantee would be canceled. Customers would also be offered the alternative of prepayment in lieu of a deposit. Duke Power's prepayment program would entail customers paying for electricity as it is used on a weekly or bi-weekly basis, rather than paying on the normal billing cycle (which is approximately every thirty days).

The Honorable Bruce F. Duke
Executive Director
The Public Service Commission
Of South Carolina
P.O. Drawer 11649
Columbia, SC 29211

Conclusion

If Duke Power were provided with the ability to request guarantee of payment from nonresidential customers as outlined above, the Company believes that other customers would be better protected from having to absorb the costs resulting from unmitigated credit events.

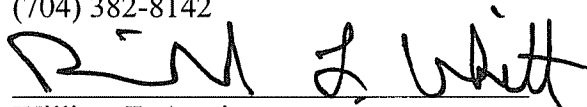
We hereby request that the Commission inquire into this matter and find that, (i) full compliance with the Rule introduces unusual difficulty to Duke Power (ii) the partial waiver request is in the public interest. (iii) that notice and a formal hearing are not required and (iv) that the Commission approve this request in the next appropriate weekly agenda meeting.

Confidentiality/Motion to File Under Seal

Exhibit "1" hereto, consisting of three pages, contains proprietary and commercially sensitive material which Duke Power hereby request to file under seal. **Accordingly, please consider this letter as Duke Power's Motion to file Exhibit "1" hereto, under seal.**

Respectfully submitted,

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EXHIBIT NO. "1"

(FILED UNDER SEAL)